

February 8, 1994

TO: Sam Borries

From: Deirdre Tanaka

Attached is the ARARs information you requested

**Rivers and Harbors Act, 33 U.S.C. 401 et seq.**

I've included Section 403 which prohibits unpermitted dredge and fill operations and unauthorized alterations or modifications of the course, location, condition or capacity of navigable waters.

**Wild and Scenic Rivers Act, 16 U.S.C. 1271 et seq.**

Section 1274 lists river segments and adjacent lands which are already designated as part of the national wild and scenic rivers system.

--No segment of the Mississippi River is listed.

Section 1276 lists river segments designated for potential addition to the wild and scenic rivers system.

--This section lists the Upper Mississippi, from its source to the northwestern edge of the city of Anoka, Minnesota.

**Fish and Wildlife Coordination Act, 16 U.S.C. 661 et seq.**

Section 665a addresses the maintenance of habitat needs for fish and other wildlife in the Upper Mississippi, from Rock Island Illinois to Minneapolis, Minnesota.

**Fish and Wildlife Improvement Act, 16 U.S.C. 742a**

The Act recognizes the damage that *would* occur to the nation's fish and wildlife resources if they are exploited. The purpose of Act is to ensure the proper development of these resources.

**Fish and Wildlife Conservation Act, 16 U.S.C. 2901 et seq.**

The purpose of the Act is to promote nationwide conservation of fish and wildlife resources.

less accorded substantial weight by courts and such determination is certainly appropriate exercise of regulatory authority of Corps of Engineers under this section and sections 403, 404, 407, and 408 of this title. *Hartman v. U.S.*, D.C.S.C.1981, 522 F.Supp. 114.

#### 59. Appellate court review

On appeal by ship and owner from adverse decree in cross action arising out of collision of ship with State Highway Department bascule bridge, Court of Appeals was required to consider circumstances at particular time and place and under conditions then prevailing in ascertaining whether overhanging of bascule span violating permit issued by Department of War [now Department of the Army] for construction of bridge could have, with reasonable possibility, contributed to the disaster. *The Fort Fetterman v. South Carolina State Highway Dept.*, C.A.S.C.1960, 278 F.2d

921, certiorari denied 81 S.Ct. 272, 364 U.S. 910, 5 L.Ed.2d 225, rehearing denied 81 S.Ct. 458, 364 U.S. 944, 5 L.Ed.2d 375.

#### 60. Remand

On remand by Court of Appeals which had accepted lower court's finding, in cross action arising out of collision of ship with State Highway Department bascule bridge, that initial contact of ship with bridge was at gear rack and that this impact caused collapse of bascule span which violated permit issued by Department of War [now Department of the Army] for construction of bridge, district court properly declined to reconsider such finding. *The Fort Fetterman v. South Carolina State Highway Dept.*, C.A.S.C.1960, 278 F.2d 921, certiorari denied 81 S.Ct. 272, 364 U.S. 910, 5 L.Ed.2d 225, rehearing denied 81 S.Ct. 458, 364 U.S. 944, 5 L.Ed.2d 375.

### § 402. Construction of bridges, etc., over Illinois and Mississippi Canal

The provisions of section 401 of this title are made applicable alike to the completed and uncompleted portions of the Illinois and Mississippi Canal. Whenever the Secretary of the Army shall approve plans for a bridge to be built across said canal he may, in his discretion, and subject to such terms and conditions as in his judgment are equitable, expedient, and just to the public, grant to the person or corporation building and owning such bridge a right of way across the lands of the United States on either side of and adjacent to the said canal; also the privilege of occupying so much of said lands as may be necessary for the piers, abutments, and other portions of the bridge structure and approaches.

(June 13, 1902, c. 1079, § 10, 32 Stat. 374.)

#### Historical Note

**Codification.** Section was part of the Rivers and Harbors Appropriation Act of 1902.

**Change of Name.** The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of Act July 26, 1947, c. 343, Title II, 61 Stat. 501. Section 205(a) of Act July 26, 1947, was repealed by section 53 of Act Aug. 10, 1956, c. 1041, 70A Stat. 641. Section 1 of Act Aug. 10, 1956, enacted "Title 10, Armed Forces", which in sections 3010 to 3013 continued the Military Department of the Army under the administrative supervision of a Secretary of the Army.

**Transfer of Functions.** All functions, powers, and duties of the Secretary of the Army and other offices and officers of the Department of the Army under section 401 of this title to the extent that they relate generally to the location and clearances of bridges and causeways in the navigable waters of the United States were transferred to and vested in the Secretary of Transportation by Pub.L. 89-670, § 6(g)(6)(A), Oct. 15, 1966, 80 Stat. 941. Pub.L. 97-449 amended section 401 of this title to reflect the transfer made by section 6(g)(6)(A) of Pub.L. 89-670, and repealed section 6(g)(6)(A).

#### Library References

Navigable Waters § 20(2).  
C.J.S. Navigable Waters § 33.

### § 403. Obstruction of navigable waters generally; wharves; piers, etc.; excavations and filling in

The creation of any obstruction not affirmatively authorized by Congress, to the navigable capacity of any of the waters of the United States is prohibited; and it shall not be lawful to build or commence the building of any wharf, pier, dolphin, boom, weir, breakwater, bulkhead, jetty, or other structures in any port, roadstead, haven, harbor, canal, navigable river, or other water of the United States, outside established harbor lines, or where no harbor lines have been established, except on plans recommended by the Chief of Engineers and authorized by the Secretary of the Army; and it shall not be lawful to excavate or fill, or in any manner to alter or modify the course, location, condition, or capacity of, any port, roadstead, haven, harbor, canal, lake, harbor of refuge, or inclosure within the limits of any breakwater, or of the channel of any navigable water of the United States, unless the work has been recommended by the Chief of Engineers and authorized by the Secretary of the Army prior to beginning the same.

(Mar. 3, 1899, c. 425, § 10, 30 Stat. 1151.)

#### Historical Note

**Codification.** Section was part of the Rivers and Harbors Appropriation Act of 1899.

**Prior Provisions.** Act Sept. 19, 1890, c. 907, § 10, 26 Stat. 454, was probably omitted from the Code as superseded by this section but it was held by the Circuit Court of Appeals in *Wishkah Boom Co.*, Wash.1905, 136 F. 42, 68 C.C.A. 592 (appeal dismissed [1906] 26 S.Ct. 765, 202 U.S. 613, 50 L.Ed. 1171), that it was not superseded so far as it related to the continuance of obstructions. It provided that:

"The creation of any obstruction, not affirmatively authorized by law, to the navigable capacity of any waters, in respect of which the United States has jurisdiction, is hereby prohibited. The continuance of any such obstruction, except bridges, piers, docks, and wharves, and similar structures erected for business purposes, whether heretofore or hereafter created, shall constitute an offense and each week's continuance of any such obstruction shall be deemed a separate offense. Every person and every corporation which shall be guilty of creating or continuing any such unlawful obstruction in this act mentioned, or who shall violate the provisions of the last four preceding sections of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a

fine not exceeding five thousand dollars, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court, the creating or continuing of any unlawful obstruction in this act mentioned may be prevented and such obstruction may be caused to be removed by the injunction of any circuit court [district court] exercising jurisdiction in any district in which such obstruction may be threatened or may exist; and proper proceedings in equity to this end may be instituted under the direction of the Attorney-General of the United States."

This section and section 9 of Act Mar. 3, 1899 (section 401 of this title) superseded provisions of Act Sept. 19, 1890, c. 907, § 7, 26 Stat. 454, as amended by Act July 13, 1892, c. 158, § 3, 27 Stat. 110, which prohibited the erection of obstructions to navigation, and prohibited the erection of bridges over navigable waters under State legislation before the approval of the plans by the Secretary of War, and prohibited the alteration of channels unless authorized by said Secretary.

**Change of Name.** The Department of War was designated the Department of the Army and the title of the Secretary of War was changed to Secretary of the Army by section 205(a) of Act July 26, 1947, c. 343, Title II,

**Sec.**

667d. Reports to Congress.

667e. Repealed.

**SUBCHAPTER II—PROTECTION OF BALD AND  
GOLDEN EAGLES**

668. Bald and golden eagles.

(a) Prohibited acts; criminal penalties.

(b) Civil penalties.

(c) Cancellation of grazing agreements.

668a. Taking and using of the bald and golden eagle for scientific, exhibition, and religious purposes.

668b. Enforcement provisions.

(a) Arrest; search; issuance and execution of warrants and process.

(b) Forfeiture.

(c) Customs laws applied.

668c. Definitions.

668d. Availability of appropriations for Migratory Bird Treaty Act.

**SUBCHAPTER III—ENDANGERED SPECIES OF  
FISH AND WILDLIFE**

668aa to 668cc-6. Repealed.

668dd. National Wildlife Refuge System.

(a) Designation; administration; continuance of resources-management programs for refuge lands in Alaska; disposal of acquired lands; proceeds.

(b) Administration; public accommodations contracts; acceptance and use of funds; exchange of properties; cash equalization payments.

(c) Prohibited and permitted activities; application of mining and mineral leasing laws, hunting or fishing regulations, and State laws or regulations.

(d) Use of areas; administration of migratory bird sanctuaries as game taking areas; rights of way, easements, and reservations; payment of fair market value.

(e) Penalties.

(f) Enforcement provision; arrests, searches, and seizures; custody of property; forfeitures; disposition.

(g) Regulations; continuation, modification, or rescission.

(h) National conservation recreational area provisions; amendment, repeal, or modification.

(i) Exemption from State water laws.

668ee. Definitions.

668ff to 668ss. Omitted.

**SUBCHAPTER I—GAME, FUR-BEARING ANIMALS, AND FISH**

**§ 661. Declaration of purpose; cooperation of agencies; surveys and investigations; donations**

For the purpose of recognizing the vital contribution of our wildlife resources to the Nation, the increasing public interest and significance thereof due to expansion of our national economy and other factors, and to provide that wildlife conservation shall receive equal consideration and be coordinated with other features of water-resource development programs through the effectual and harmonious planning, development, maintenance, and coordination of wildlife conservation and rehabilitation for the purposes of sections 661 to 666c of this title in the United States, its Territories and possessions, the Secretary of the Interior is authorized (1) to provide assistance to, and cooperate with, Federal, State, and public or private agencies and organizations in the development, protection, rearing, and stocking of all species of wildlife, resources thereof, and their habitat, in controlling losses of the same from disease or other causes, in minimizing damages from overabundant species, in providing public shooting and fishing areas, including easements across public lands for access thereto, and in carrying out other measures necessary to effectuate the purposes of said sections; (2) to make surveys and investigations of the wildlife of the public domain, including lands and waters or interests therein acquired or controlled by any agency of the United States; and (3) to accept donations of land and contributions of funds in furtherance of the purposes of said sections.

(Mar. 10, 1934, c. 55, § 1, 48 Stat. 401; 1939 Reorg. Plan No. II, § 4(e), (f), eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1433; Aug. 14, 1946, c. 965, 60 Stat. 1080; Aug. 12, 1958, Pub.L. 85-624, § 2, 72 Stat. 563.)

**Historical Note**

**1958 Amendment.** Pub.L. 85-624 inserted provisions which relate to recognition of the vital contribution of wildlife resources to the Nation, the increasing public interest and significance thereof, and to equal consideration and coordination of wildlife conservation with other water-resource development programs, and which authorize the Secretary to provide public fishing areas, and to accept donations of lands and contributions of funds.

**1946 Amendment.** Act Aug. 14, 1946 amended section generally in order to promote more effectual planning and cooperation between Federal, State, public, and private agencies for the conservation and rehabilitation of wildlife.

**Short Title.** Section 1 of Pub.L. 85-624 provided: "That the Act of March 10, 1934, as amended, and as further amended by this Act [classified to sections 661 to 666c of this title] may be cited as the 'Fish and Wildlife Coordination Act'."

**Transfer of Functions.** Enforcement functions of Secretary or other official in Department of Interior related to compliance with wildlife consultation in sections 661 to 666c of this title and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with sections 661 to 666c of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas were transferred to the Federal Inspector, Office of Federal Inspector for the Alaska Natural Gas Transportation System, until the first anniversary of date of initial operation of the Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§ 102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in Appendix 1 to Title 5, Government Organization and Employees.

## Historical Note

**1946 Amendment.** Act Aug. 14, 1946 amended section generally to provide for investigations as to the effect of sewage and industrial waste on wildlife.

**Transfer of Functions.** See Transfer of Functions note set out under section 661 of this title.

## Cross References

Annual report to Congress on possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems, see section 1442 of Title 33, Navigation and Navigable Waters.

Recommendations to Secretary of Health and Human Services on pollution detrimental to fish and wildlife, see section 757f of this title.

## Library References

Navigable Waters ⇐35.  
C.J.S. Navigable Waters § 11.

## Notes of Decisions

## 1. Failure to investigate

Department of the Interior did not abuse its discretion and thereby violate sections 661 to 666C of this title by reporting to Environmental Protection Agency that, due to lack of personnel, it would take no action on land

developer's application for a national pollutant discharge elimination system permit. *Sun Enterprises, Ltd. v. Train*, D.C.N.Y. 1975, 394 F.Supp. 211, affirmed 532 F.2d 280.

## § 665a. Maintenance of adequate water levels in upper Mississippi River

In the management of existing facilities (including locks, dams, and pools) in the Mississippi River between Rock Island, Illinois, and Minneapolis, Minnesota, administered by the United States Corps of Engineers of the Department of the Army, that Department is directed to give full consideration and recognition to the needs of fish and other wildlife resources and their habitat dependent on such waters, without increasing additional liability to the Government, and, to the maximum extent possible without causing damage to levee and drainage districts, adjacent railroads and highways, farm lands, and dam structures, shall generally operate and maintain pool levels as though navigation was carried on throughout the year.

(Mar. 10, 1934, c. 55, § 5A, as added June 19, 1948, c. 528, 62 Stat. 497.)

## Historical Note

**Legislative History.** For legislative history and purpose of Act June 19, 1948, see 1948 U.S. Code Cong. Service, p. 1906.

## § 666. Authorization of appropriations

There is authorized to be appropriated from time to time, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of sections 661 to 666c of this title and

regulations made pursuant thereto, including the construction of such facilities, buildings, and other improvements necessary for economical administration of areas made available to the Secretary of the Interior under said sections, and the employment in the city of Washington and elsewhere of such persons and means as the Secretary of the Interior may deem necessary for such purposes.

(Mar. 10, 1934, c. 55, § 6, 48 Stat. 402; Aug. 14, 1946, c. 965, 60 Stat. 1082.)

## Historical Note

**1946 Amendment.** Act Aug. 14, 1946 amended section generally to provide for the necessary appropriations to carry out the purposes of sections 661 to 666c of this title.

## § 666a. Penalties

Any person who shall violate any rule or regulation promulgated in accordance with sections 661 to 666c of this title shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than \$500 or imprisoned for not more than one year, or both.

(Mar. 10, 1934, c. 55, § 7, as added Aug. 14, 1946, c. 965, 60 Stat. 1082.)

## West's Federal Forms

Sentence and fine, see § 7531 et seq.

## Library References

Fish ⇐13.  
Game ⇐7.

C.J.S. Fish § 28 et seq.  
C.J.S. Game §§ 1, 5.

## § 666b. Definitions

The terms "wildlife" and "wildlife resources" as used herein include birds, fishes, mammals, and all other classes of wild animals and all types of aquatic and land vegetation upon which wildlife is dependent.

(Mar. 10, 1934, c. 55, § 8, as added Aug. 14, 1946, c. 965, 60 Stat. 1082.)

## Historical Note

**References in Text.** Herein, referred to in text, means Act Mar. 10, 1934, c. 55, 48 Stat. 401, which is classified generally to sections 661 to 666c of this title. For complete classification of this Act to the Code, see Short Title note set out under section 661 of this title and Tables volume.

## § 666c. Applicability to Tennessee Valley Authority

The provisions of sections 661 to 666c of this title shall not apply to the Tennessee Valley Authority.

(Mar. 10, 1934, c. 55, § 9, as added Aug. 14, 1946, c. 965, 60 Stat. 1082.)

## § 742a. Declaration of policy

The Congress declares that the fish, shellfish, and wildlife resources of the Nation make a material contribution to our national economy and food supply, as well as a material contribution to the health, recreation, and well-being of our citizens; that such resources are a living, renewable form of national wealth that is capable of being maintained and greatly increased with proper management, but equally capable of destruction if neglected or unwisely exploited; that such resources afford outdoor recreation throughout the Nation and provide employment, directly or indirectly, to a substantial number of citizens; that the fishing industries strengthen the defense of the United States through the provision of a trained seafaring citizenry and action-ready fleets of seaworthy vessels; that the training and sport afforded by fish and wildlife resources strengthen the national defense by contributing to the general health and physical fitness of millions of citizens; and that properly developed, such fish and wildlife resources are capable of steadily increasing these valuable contributions to the life of the Nation.

The Congress further declares that the fishing industry, in its several branches, can prosper and thus fulfill its proper function in national life only if certain fundamental needs are satisfied by means that are consistent with the public interest and in accord with constitutional functions of governments. Among these needs are:

(1) Freedom of enterprise—freedom to develop new areas, methods, products, and markets in accordance with sound economic principles, as well as freedom from unnecessary administrative or legal restrictions that unreasonably conflict with or ignore economic needs;

(2) Protection of opportunity—maintenance of an economic atmosphere in which domestic production and processing can prosper; protection from subsidized competing products; protection of opportunity to fish on the high seas in accordance with international law;

(3) Assistance—assistance consistent with that provided by the Government for industry generally, such as is involved in promoting good industrial relations, fair trade standards, harmonious labor relations, better health standards and sanitation; and including, but not limited to—

(a) services to provide current information on production and trade, market promotion and development, and an extension service,

(b) research services for economic and technologic development and resource conservation, and

(c) resource management to assure the maximum sustainable production for the fisheries.

The Congress further declares that the provisions of this Act are necessary in order to accomplish the objective of proper resource development, and that this Act shall be administered with due regard to the inherent right of every citizen and resident of the United States to engage in fishing for his own pleasure, enjoyment, and betterment, and with the intent of maintaining and increasing the public opportunities for recreational use of our fish

and wildlife resources, and stimulating the development of a strong, prosperous, and thriving fishery and fish processing industry.

(Aug. 8, 1956, c. 1036, § 2, 70 Stat. 1119.)

## Historical Note

**References in Text.** This Act, referred to in text, is Act Aug. 8, 1956, c. 1036, 70 Stat. 1119, as amended, known as the Fish and Wildlife Act of 1956, which is classified generally to sections 742a to 742d and 742e to 742j-2 of this title. For complete classification of this Act to the Code, see Short Title note set out under this section and Tables volume.

**Short Title of 1978 Amendment.** Pub.L. 95-616, § 1, Nov. 8, 1978, 92 Stat. 3110, provided: "That this Act [which enacted sections 695j-1, 712, 742l of this title and amended sections 460k-3, 666g, 668a, 668dd, 690e, 695i, 706, 715d, 715i, 715j, 718b, 718c,

718f, 753a of this title and sections 1114, 3112 of Title 18, Crimes and Criminal Procedure] may be cited as the 'Fish and Wildlife Improvement Act of 1978'."

**Short Title.** Section 1 of Act Aug. 8, 1956, provided: "That this Act [enacting sections 742a to 742d and 742e to 742j of this title, and amending section 713c-3(e) of Title 15, Commerce and Trade] may be cited as the 'Fish and Wildlife Act of 1956'."

**Legislative History.** For legislative history and purpose of Act Aug. 8, 1956, see 1956 U.S. Code Cong. and Adm. News, p. 4590.

## West's Federal Practice Manual

Fish and Wildlife Service, see § 5231.

## Library References

Fish § 8, 11, 12.

Game § 3½, 6.

States § 4.19.

United States § 29, 35, 55, 82, 85.

C.J.S. Fish §§ 26, 28 to 38.

C.J.S. Game §§ 7, 9.

C.J.S. States § 28.

C.J.S. United States §§ 34, 35, 37, 62 to 64, 71, 73, 122, 123.

## § 742b. United States Fish and Wildlife Service

## (a) Assistant Secretary for Fish and Wildlife

There is established within the Department of the Interior the position of Assistant Secretary for Fish and Wildlife. Such Assistant Secretary shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the same rate as other Assistant Secretaries.

## (b) Establishment; Director of United States Fish and Wildlife Service; appointment; qualifications

There is established within the Department of the Interior the United States Fish and Wildlife Service. The functions of the United States Fish and Wildlife Service shall be administered under the supervision of the Director, who shall be subject to the supervision of the Assistant Secretary for Fish and Wildlife. The Director of the United States Fish and Wildlife Service shall be appointed by the President, by and with the advice and consent of the Senate. No individual may be appointed as the Director unless he is, by reason of scientific education and experience, knowledgeable in the principles of fisheries and wildlife management.

1981, \$10,000,000 for fiscal year 1982, and \$12,000,000 for fiscal year 1983, respectively.

Par. (3). Pub.L. 98-623 substituted provisions authorizing appropriations of \$1,000,000 for each of the fiscal years 1984 and 1985 for provisions which had authorized

appropriations of \$3,000,000 for fiscal year 1981, \$4,000,000 for fiscal year 1982, and \$5,000,000 for fiscal year 1983, respectively.

**Legislative History.** For legislative history and purpose of Pub.L. 96-362, see 1980 U.S. Code Cong. and Adm. News, p. 2878.

#### Library References

United States 85.  
C.J.S. United States § 123.

### § 2810. Disclaimer

Nothing in this chapter shall be construed to amend, repeal, or otherwise modify the authority of any Federal officer, department, or agency to perform any function, responsibility, or activity authorized under any other provision of law.

(Pub.L. 96-362, § 11, Sept. 26, 1980, 94 Stat. 1206.)

#### Historical Note

**Legislative History.** For legislative history and purpose of Pub.L. 96-362, see 1980 U.S. Code Cong. and Adm. News, p. 2878.

## CHAPTER 49—FISH AND WILDLIFE CONSERVATION

### Sec.

- 2901. Congressional findings and declaration of purpose.
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- 2904. Approval of conservation plans and certain nongame fish and wildlife conservation actions.
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- 2905. Reimbursement of State costs for developing, revising, and implementing conservation plans and implementing certain nongame fish and wildlife conservation actions.
  - (a) In general.
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- 2908. Other Federal assistance and actions.
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- 2910. Authorization of appropriations.
- 2911. Study on most equitable and effective mechanism for funding State conservation plans; report to Congressional committees.

### § 2901. Congressional findings and declaration of purpose

#### (a) Findings

The Congress finds and declares the following:

(1) Fish and wildlife are of ecological, educational, esthetic, cultural, recreational, economic, and scientific value to the Nation.

(2) The improved conservation and management of fish and wildlife, particularly nongame fish and wildlife, will assist in restoring and maintaining fish and wildlife and in assuring a productive and more esthetically pleasing environment for all citizens.

(3) Many citizens, particularly those residing in urban areas, have insufficient opportunity to participate in recreational and other pro-

grams designed to foster human interaction with fish and wildlife and thereby are unable to have a greater appreciation and awareness of the environment.

(4) Historically, fish and wildlife conservation programs have been focused on the more recreationally and commercially important species within any particular ecosystem. As a consequence such programs have been largely financed by hunting and fishing license revenues or excise taxes on certain hunting and fishing equipment. These traditional financing mechanisms are neither adequate nor fully appropriate to meet the conservation needs of nongame fish and wildlife.

(5) Each State should be encouraged to develop, revise, and implement, in consultation with appropriate Federal, State, and local and regional agencies, a plan for the conservation of fish and wildlife, particularly those species which are indigenous to the State.

#### (b) Purpose

It is the purpose of this chapter—

(1) to provide financial and technical assistance to the States for the development, revision, and implementation of conservation plans and programs for nongame fish and wildlife; and

(2) to encourage all Federal departments and agencies to utilize their statutory and administrative authority, to the maximum extent practicable and consistent with each agency's statutory responsibilities, to conserve and to promote conservation of nongame fish and wildlife and their habitats, in furtherance of the provisions of this chapter.

(Pub.L. 96-366, § 2, Sept. 29, 1980, 94 Stat. 1322.)

#### Historical Note

**Short Title.** Section 1 of Pub.L. 96-366 provided: "That this Act [enacting this chapter] may be cited as the 'Fish and Wildlife Conservation Act of 1980'."

**Legislative History.** For legislative history and purpose of Pub.L. 96-366, see 1980 U.S. Code Cong. and Adm. News, p. 3092.

#### Cross References

State's eligibility for reimbursement for costs incurred in coordination of conservation plans and actions under this chapter and under other laws, see section 2905 of this title

#### Library References

Fish ⇨ 8.

Game ⇨ 3½.

United States ⇨ 82(1).

C.J.S. Fish § 26.

C.J.S. Game § 7.

C.J.S. United States § 122.

#### Code of Federal Regulations

Rules implementing this chapter, see 50 CFR 83.1 et seq.

## § 2902. Definitions

As used in this chapter—

(1) The term "approved conservation plan" means the conservation plan of a State approved by the Secretary pursuant to section 2904(a) of this title.

(2) The term "conservation plan" means a plan developed by a State for the conservation of fish and wildlife which meets the requirements set forth in section 2903 of this title.

(3) The terms "conserve", "conserving", and "conservation" mean to use, and the use of, such methods and procedures which are necessary to ensure, to the maximum extent practicable, the well being and enhancement of fish and wildlife and their habitats for the ecological, educational, esthetic, cultural, recreational, and scientific enrichment of the public. Such methods and procedures may include, but are not limited to, any activity associated with scientific resources management, such as research, census, law enforcement, habitat acquisition, maintenance, development, information, education, population manipulation, propagation, technical assistance to private landowners, live trapping, and transplantation.

(4) The term "designated State agency" means the commission, department, division, or other agency of a State which has primary legal authority for the conservation of fish and wildlife. If any State has placed such authority in more than one agency, such term means each such agency acting with respect to its assigned responsibilities but such agencies, for purposes of this chapter, shall submit a single conservation plan.

(5) The term "fish and wildlife" means wild vertebrate animals that are in an unconfined state, including, but not limited to, nongame fish and wildlife.

(6) The term "nongame fish and wildlife" means wild vertebrate animals that are in an unconfined state and that—

(A) are not ordinarily taken for sport, fur, or food, except that if under applicable State law, any of such animals may be taken for sport, fur, or food in some, but not all, areas of the State, any of such animals within any area of the State in which such taking is not permitted may be deemed to be nongame fish and wildlife;

(B) are not listed as endangered species or threatened species under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543); and

(C) are not marine mammals within the meaning of section 1362(5) of this title.

Such term does not include any domesticated species that has reverted to a feral existence.

(7) The term "Secretary" means the Secretary of the Interior.

(8) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub.L. 96-366, § 3, Sept. 29, 1980, 94 Stat. 1323.)